

**STATE OF MICHIGAN
DEPARTMENT OF LABOR & ECONOMIC GROWTH
OFFICE OF FINANCIAL AND INSURANCE SERVICES**

Before the Commissioner of the Office of Financial and Insurance Services

In the matter of:

Homeward Bound Services, Inc.

Enforcement Case No. 06-4895

Respondent

Issued and entered
On 28 January 2008
by Frances K. Wallace
Chief Deputy Commissioner

ORDER TO CEASE AND DESIST

The Office of Financial and Insurance Services of the Michigan Department of Labor & Economic Growth, pursuant to the Administrative Procedures Act of 1969, 1969 PA 306, as amended; MCL 24.201 *et seq*; the Michigan Insurance Code, 1956 PA 218, as amended; MCL 500.100 *et seq.*, and the rules promulgated under the Michigan Insurance Code, says that:

**I.
BACKGROUND**

1. Section 402 of the Michigan Insurance Code (Code), MCL 500.402, provides that: "No person shall act as an insurer and no insurer shall issue any policy or otherwise transact insurance in this state except as authorized by a subsisting certificate of authority granted to it by the commissioner pursuant to this code."
2. Section 402a of the Code, MCL 500.402a, provides that, "In this state, the following transactions, whether effected by mail or otherwise, require a certificate of authority:
 - (a) The issuance or delivery of insurance contracts to residents of this state.
 - (b) The solicitation of applications for insurance contracts from residents of this state.
 - (c) The collection of premiums, membership fees, assessments, or other consideration for insurance contracts from residents of this state.
 - (d) The doing or proposing to do any act in substance equivalent to subdivisions (a) and (c)."
3. Section 114 of the Code, MCL 500.114 states that "Person" as used in this Code includes an individual, insurer, company, association, organization, Lloyds, society, reciprocal or inter-insurance exchange, partnership, syndicate, business trust, corporation, and any other legal entity.

4. Section 106 of the Code, MCL 500.106 states that: "Insurer" as used in this Code means any individual, corporation, association, partnership, reciprocal exchange, inter-insurer, Lloyds organization, fraternal benefit society, and any other legal entity, engaged or attempting to engage in the business of making insurance or surety contracts."
5. Homeward Bound Services, Inc. ("Homeward Bound") is a company based in Drexel Hill, Pennsylvania.
6. Homeward Bound, through its agent John G. Aijala, solicited applications, collected premiums, and issued insurance contracts concerning their Assisted Living Services Program in the State of Michigan.
7. Homeward Bound was the subject of an Order to Cease & Desist in several other states, including Illinois and Wisconsin where Homeward Bound was ordered to stop selling their Assisted Living Services Program and ordered to refund payments made by consumers.
8. Homeward Bound has not applied for and the Commissioner has not granted Homeward Bound a certificate of authority to act as an insurer in the State of Michigan.
9. Homeward Bound has conducted insurance transactions in the State of Michigan that require a certificate of authority.

II CONCLUSIONS OF LAW

WHEREAS, Section 251 of the Michigan Insurance Code, ("Code") MCL 500.251 states that in the reasonable exercise of discretion, the Commissioner may issue a cease and desist order if the Commissioner finds any of the following:

- (a) A person is conducting transactions of insurance for which a certificate of authority is required by this act without having obtained a certificate of authority.
- (b) A person is acting as an insurance agent, solicitor, adjuster, or counselor without a license as required by this act.
- (c) A person is engaged in an act or practice in the business of insurance for which authority from or notification to the Commissioner is required by this act and the person has not received authority or given notification; and

WHEREAS, the Commissioner finds that a person acting as an insurer by issuing an insurance policy or transacting insurance in the State of Michigan must have a certificate of authority granted by the Commissioner; and

WHEREAS, the Commissioner finds that Homeward Bound Services, Inc. was engaging in or attempting to engage in the business of making insurance contracts in the State of Michigan; and

WHEREAS, the records of OFIS do not show that the Commissioner has granted Homeward Bound Services, Inc. a certificate of authority to act as an insurer in the State of Michigan; and

WHEREAS, the Commissioner finds that Section 402a of the Code provides that the following transactions, whether effected by mail or otherwise, require a certificate of authority:

- (a) The issuance or delivery of insurance contracts to residents of this state.
- (b) The solicitation of applications for insurance contracts from residents of this state.
- (c) The collection of premiums, membership fees, assessments, or other consideration for insurance contracts from residents of this state.
- (d) The doing or proposing to do any act in substance equivalent to subdivisions (a) and (c); and

WHEREAS, the Commissioner finds that Homeward Bound Services, Inc. has conducted transactions listed in Section 402a of the Code and Homeward Bound Services, Inc. does not have a certificate of authority to conduct these transactions in the State of Michigan; and

WHEREAS, based on the foregoing, the Commissioner finds that Homeward Bound Services, Inc. is engaged in acts and practices that violate the Code; and

WHEREAS, the Commissioner finds this action necessary and appropriate in the public interest for the protection of the public and consistent with the purposes fairly intended by the policy and provisions of the Code.

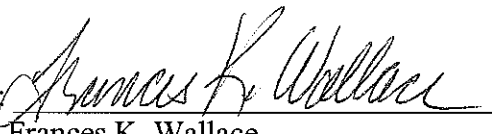
IT IS THEREFORE ORDERED, pursuant to Section 251 of the Code, that Homeward Bound Services, Inc. shall immediately **CEASE AND DESIST** from violating Section 402 of the Code by acting as an insurer and issuing insurance policies or other insurance transactions in the State of Michigan without a certificate of authority.

IT IS FURTHER ORDERED, pursuant to Section 251 of the Code, that Homeward Bound Services, Inc. shall immediately **CEASE AND DESIST** from violating Section 402a of the Code by conducting transactions listed in Section 402a of the Code in the State of Michigan without the required certificate of authority.

A person who violates or otherwise fails to comply with a cease and desist order is subject to a civil fine of not more than \$1,000.00 for each violation not to exceed an aggregate civil fine of \$30,000.00. However, if the person knew or reasonably should have known the person was in violation of the order, payment of a civil fine of not more than \$25,000.00 for each violation not to exceed an aggregate civil fine of \$250,000.00. The Commissioner may also recover reasonable attorney fees if judicial action is necessary for enforcement of a cease and desist order under this section.

A person who is the subject of a cease and desist order may contest the order by requesting a hearing before the Commissioner not later than 30 days after the order is delivered or mailed to the person. Within 10 days after receiving the request, the Commissioner shall commence a hearing in accordance with the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969. Pending the hearing, the cease and desist order continues in full force and effect unless the order is stayed by the Commissioner. Any request for a hearing should be addressed to: the Office of Financial and Insurance Services, Attention: Hearing Coordinator Dawn Kobus, P.O. Box 30220, Lansing, Michigan 48909.

MICHIGAN DEPARTMENT OF
LABOR AND ECONOMIC GROWTH

By: 
Frances K. Wallace
Chief Deputy Commissioner